

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JANE DOE, as guardian as d litem of MARY  
DOE, a minor,

Plaintiff,

v.

CITY OF ORTING, a municipality, CITY OF  
ORTING POLICE DEPARTMENT, a division  
of City of Orting; BRIAN GARRETT  
BURNSHIRE, and ROES 1through 5,  
inclusive,

Defendants.

Case No. C04-5302FDB

ORDER GRANTING MOTION TO  
COMPEL AND FOR SANCTIONS

Plaintiff moves to compel the video deposition of Defendant Brian G. Burnshire and moves for sanctions, as well. A video deposition was noted for May 26, 2005 at 8:30 a.m., at Plaintiff's counsel's office, and Defendant was given notice on April 21, 2005. When Defendant Burnshire's counsel arrived, shortly after 9:00 a.m., she refused to let the deposition proceed if it were going to be videotaped. Defendant's counsel objected to calling the Court for a conference to resolve the issue, and she and Burnshire left at 9:24 a.m.

Plaintiff argues that Fed. R. Civ. P. 30(b)(2) permits the videotaping of depositions [sound, sound and visual, or stenographic means], and deposition of Burnshire was to be recorded through

1 stenographic means as well as videotaping. Plaintiff argues that when a party fails to cooperate in  
2 discovery, another party is entitled to bring a motion to compel after the moving party has in good  
3 faith attempted to confer with the other party to secure the information without court action. Here  
4 Defendant Burnshire's counsel refused a telephone conference and has refused to participate in the  
5 videotaped deposition. Plaintiff also seeks sanctions under Fed. R. Civ. P. 37(a)(4), claiming  
6 \$200.00 for the court reporter on May 26, 2005, \$95.00 for the videographer, \$350.00 for an hour  
7 of counsel's time, and \$496.00 for the preparation of this motion, for a total of \$1,141.00.


8 Defendant Burnshire has not responded to the motion.

9 Therefore, good cause having been shown to grant the motion, and pursuant to Local Rule  
10 7(b)(2) failure to file opposition to the motion may be taken as an admission that the motion has  
11 merit, the motion will be granted. The amount of sanctions, however, will be modified.

12 ACCORDINGLY, IT IS ORDERED:

- 13 1. Plaintiff's Motion To Compel Video Deposition of Defendant [Dkt. # 29] is  
14 GRANTED; counsel for the parties shall confer and determine a mutually  
15 convenience date for the conference as promptly as possible;
- 16 2. Plaintiff is awarded costs for attending the earlier scheduled deposition and for the  
17 costs of bringing this motion in the amount of \$945.00, payable within ten days of the  
18 date this Order is entered.

19 DATED this 14<sup>th</sup> day of June, 2005.

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22 FRANKLIN D. BURGESS  
23 UNITED STATES DISTRICT JUDGE  
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